

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 220

HOUSE BILL 2589

AN ACT

AMENDING SECTIONS 43-1071 AND 43-1096, ARIZONA REVISED STATUTES; RELATING TO
INDIVIDUAL INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 43-1071, Arizona Revised Statutes, is amended to read:

43-1071. Credit for income taxes paid to other states:
definitions

A. Subject to the following conditions, residents shall be allowed a credit against the taxes imposed by this chapter for net income taxes imposed by and paid to another state or country on income taxable under this chapter:

1. The credit shall be allowed only for taxes paid to the other state or country on income that is derived from sources within that state or country and that is taxable under its laws irrespective of the residence or domicile of the recipient.

2. The credit shall not be allowed if the other state or country allows residents of this state a credit against the taxes imposed by that state or country for taxes paid or payable under this chapter.

3. The credit shall not exceed the proportion of the tax payable under this chapter as the income subject to tax in the other state or country and also taxable under this title bears to the taxpayer's entire income ~~upon~~ ON which the tax is imposed by this chapter.

B. If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer:

1. The taxpayer shall immediately report that fact to the department.

2. A tax equal to the credit allowed for the taxes credited or refunded by the other state or country is due and payable from the taxpayer ~~upon~~ ON notice and demand from the department.

3. Interest shall be added to and collected as a part of the tax at the rate determined pursuant to section 42-1123 from the date the credit was allowed under this chapter to the date of the notice and demand.

4. If the tax and interest are not paid within ten days from the date of notice and demand, there shall be collected as a part of the tax interest ~~upon~~ ON the unpaid amount of tax and interest at the rate of twelve per cent ~~per annum~~ A YEAR from the date of the notice and demand until the amount is paid.

C. The credit against the taxes imposed by this chapter for net income taxes paid to another state or country shall not be allowed to any taxpayer or any class of taxpayers if the allowances of the credit will result in any invalid or illegal discrimination against another taxpayer or another class of taxpayers.

D. For taxable years beginning on or after January 1, 2002 and subject to the following conditions, a resident of this state, who is also considered to be a resident of another state under the laws of the other state, is allowed a credit against the taxes imposed by this title for net income taxes imposed by and paid to that state on income taxable under this title as follows:

1 1. The credit is allowed only if the other state taxes the income to
2 the resident of this state and does not allow the taxpayer a credit against
3 taxes imposed by that state on that income for taxes paid or payable on that
4 income under this title.

5 2. The credit is allowed only for the proportion of the taxes paid to
6 the other state as the income taxable under this title and also subject to
7 tax in the other state bears to the entire income on which the taxes paid to
8 the other state are imposed.

9 3. The credit may not exceed the proportion of the tax payable under
10 this title as the income taxable under this title and also subject to tax in
11 the other state bears to the entire income taxable under this title.

12 4. For the purpose of the credit allowed under this subsection,
13 "income taxable under this title and also subject to tax in the other state"
14 means income that would be sourced to the other state if the other state were
15 imposing its income tax on the taxpayer as if the taxpayer was a nonresident
16 of that other state.

17 E. For THE purposes of this section, net income taxes imposed by
18 another country include taxes that qualify for a credit under sections 901
19 and 903 of the internal revenue code and the regulations under those
20 sections.

21 F. FOR THE PURPOSES OF THIS SECTION:

22 1. "ENTIRE INCOME ON WHICH THE OTHER STATE'S OR COUNTRY'S TAX IS
23 IMPOSED" MEANS THE OTHER STATE'S OR COUNTRY'S INCOME COMPUTED UNDER THE
24 EQUIVALENT OF SECTION 43-1094 BUT DOES NOT INCLUDE ANY EXEMPTION ALLOWABLE
25 UNDER THE EQUIVALENT OF SECTION 43-1023.

26 2. "ENTIRE INCOME ON WHICH THE TAX IS IMPOSED BY THIS CHAPTER" MEANS
27 ARIZONA ADJUSTED GROSS INCOME AS DEFINED AND COMPUTED UNDER SECTION 43-1001
28 BUT DOES NOT INCLUDE ANY EXEMPTION ALLOWED UNDER SECTION 43-1023.

29 3. "INCOME SUBJECT TO TAX IN THE OTHER STATE OR COUNTRY AND ALSO
30 TAXABLE UNDER THIS TITLE" MEANS THE PORTION OF INCOME THAT IS INCLUDED IN
31 ENTIRE INCOME ON WHICH THE TAX IS IMPOSED UNDER THIS CHAPTER THAT IS ALSO
32 INCLUDED IN THE ENTIRE INCOME ON WHICH THE OTHER STATE'S OR COUNTRY'S TAX IS
33 IMPOSED. THE TAXPAYER SHALL INCREASE OR REDUCE THE PORTION OF INCOME THAT IS
34 INCLUDED IN THE ENTIRE INCOME ON WHICH TAX IS IMPOSED UNDER THIS CHAPTER BY
35 ANY RELATED ADDITIONS UNDER SECTION 43-1021 AND BY ANY RELATED SUBTRACTIONS
36 UNDER SECTION 43-1022. THE TAXPAYER SHALL INCREASE OR REDUCE THE PORTION OF
37 INCOME THAT IS INCLUDED IN THE ENTIRE INCOME ON WHICH THE OTHER STATE'S OR
38 COUNTRY'S TAX IS IMPOSED BY ANY RELATED ADDITIONS AND SUBTRACTIONS UNDER THE
39 OTHER STATE'S EQUIVALENT OF SECTIONS 43-1021 AND 43-1022, AS APPLICABLE.

40 4. "TAX PAYABLE UNDER THIS CHAPTER" MEANS THE INCOME TAX IMPOSED BY
41 THIS STATE ON THE TAXPAYER'S TAXABLE INCOME AS DEFINED UNDER SECTION 43-1001
42 MINUS ALL OF THE FOLLOWING:

- 43 (a) THE REDUCTION AMOUNT RECEIVED UNDER SECTION 16-954, SUBSECTION A.
44 (b) ANY TAX CREDIT AMOUNT CLAIMED UNDER SECTION 16-954, SUBSECTION B.

1 (c) ANY TAX CREDIT AMOUNT CLAIMED FOR THE TAXABLE YEAR UNDER THIS
2 ARTICLE BUT NOT INCLUDING THE CREDIT AMOUNT ALLOWED UNDER THIS SECTION.

3 Sec. 2. Section 43-1096, Arizona Revised Statutes, is amended to read:

4 43-1096. Credit for income taxes paid by nonresident;
5 definitions

6 A. Subject to the following conditions, nonresidents shall be allowed
7 a credit against taxes imposed by this title for net income taxes imposed by
8 and paid to the state or country of residence on income taxable under this
9 title:

10 1. The credit shall be allowed only if the state or country of
11 residence either does not tax income of residents of this state derived from
12 sources within that state or country or allows residents of this state a
13 credit against taxes imposed by that state or country on ~~such~~ THE income for
14 taxes paid or payable ~~thereon~~ under this title.

15 2. The credit shall not be allowed for taxes paid to a state or
16 country which allows its residents a credit against the taxes imposed by that
17 state or country for income taxes paid or payable under this title
18 irrespective of whether its residents are allowed a credit against the taxes
19 imposed by this title for income taxes paid to that state or country.

20 3. The credit shall be allowed only for ~~such~~ THE proportion of the
21 taxes paid to the state or country of residence as the income taxable under
22 this title and also subject to tax in the state or country of residence bears
23 to the entire income ~~upon~~ ON which the taxes paid to the state or country of
24 residence are imposed.

25 4. The credit shall not exceed ~~such~~ THE proportion of the tax payable
26 under this title as the income ~~subject to tax in the state or country of~~
27 ~~residence and also~~ taxable under this title AND ALSO SUBJECT TO TAX IN THE
28 STATE OR COUNTRY OF RESIDENCE bears to the entire income taxable under this
29 title.

30 B. For THE purposes of this section, ~~the term "net income taxes"~~
31 imposed by another country ~~shall~~ include those taxes that qualify for a
32 credit under sections 901 and 903 of the internal revenue code and the
33 regulations ~~thereunder~~ UNDER THOSE SECTIONS.

34 C. FOR THE PURPOSES OF THIS SECTION:

35 1. "ENTIRE INCOME ON WHICH THE TAXES PAID TO THE STATE OR COUNTRY OF
36 RESIDENCE ARE IMPOSED" MEANS THE OTHER STATE'S OR COUNTRY'S ADJUSTED GROSS
37 INCOME COMPUTED UNDER THE EQUIVALENT OF SECTION 43-1001, BUT DOES NOT INCLUDE
38 ANY EXEMPTION ALLOWABLE UNDER THE EQUIVALENT OF SECTION 43-1023.

39 2. "ENTIRE INCOME TAXABLE UNDER THIS TITLE" MEANS ARIZONA ADJUSTED
40 GROSS INCOME COMPUTED UNDER SECTION 43-1094 BUT DOES NOT INCLUDE ANY
41 EXEMPTION ALLOWED UNDER SECTION 43-1023.

42 3. "INCOME TAXABLE UNDER THIS TITLE AND ALSO SUBJECT TO TAX IN THE
43 STATE OR COUNTRY OF RESIDENCE" MEANS THE PORTION OF INCOME THAT IS INCLUDED
44 IN ENTIRE INCOME TAXABLE UNDER THIS TITLE THAT IS ALSO INCLUDED IN THE ENTIRE
45 INCOME ON WHICH THE TAXES PAID TO THE STATE OR COUNTRY OF RESIDENCE ARE

1 IMPOSED. THE TAXPAYER SHALL INCREASE OR REDUCE THE PORTION OF INCOME THAT IS
2 INCLUDED IN THE ENTIRE INCOME TAXABLE UNDER THIS TITLE BY ANY RELATED
3 ADDITIONS UNDER SECTION 43-1021 AND BY ANY RELATED SUBTRACTIONS UNDER SECTION
4 43-1022. THE TAXPAYER SHALL INCREASE OR REDUCE THE PORTION OF INCOME THAT IS
5 INCLUDED IN THE ENTIRE INCOME ON WHICH TAXES PAID TO THE STATE OR COUNTRY OF
6 RESIDENCE ARE IMPOSED BY ANY RELATED ADDITIONS AND SUBTRACTIONS UNDER THE
7 OTHER STATE'S EQUIVALENT OF SECTIONS 43-1021 AND 43-1022, AS APPLICABLE.
8 4. "TAX PAYABLE UNDER THIS TITLE" MEANS THE INCOME TAX IMPOSED BY THIS
9 STATE ON THE TAXPAYER'S TAXABLE INCOME COMPUTED UNDER SECTION 43-1095 MINUS
10 ALL OF THE FOLLOWING:
11 (a) THE REDUCTION AMOUNT RECEIVED UNDER SECTION 16-954, SUBSECTION A.
12 (b) ANY TAX CREDIT AMOUNT CLAIMED UNDER SECTION 16-954, SUBSECTION B.
13 (c) ANY TAX CREDIT AMOUNT CLAIMED FOR THE TAXABLE YEAR UNDER ARTICLE 5
14 OF THIS CHAPTER BUT NOT INCLUDING THE CREDIT AMOUNT ALLOWED UNDER THIS
15 SECTION.
16 Sec. 3. Retroactivity
17 This act applies retroactively to taxable years beginning from and
18 after December 31, 2007.

APPROVED BY THE GOVERNOR MAY 20, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2008.